

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MICHAEL WARZEK,

Plaintiff,

vs.

VALLEY STATE PRISON, et al.,

Defendants.

**1:20-cv-00027-ADA-GSA-PC**

**FINDINGS AND RECOMMENDATIONS,  
RECOMMENDING THAT PLAINTIFF'S  
MOTION FOR ORDER DIRECTING PRISON  
OFFICIALS TO ALLOW HIM TO  
CORRESPOND WITH PLAINTIFFS IN  
RELATED CASES BE DENIED**

**(ECF No. 25.)**

**OBJECTIONS, IF ANY, DUE WITHIN  
FOURTEEN DAYS**

**I. BACKGROUND**

Plaintiff Michael Warzek is a state prisoner proceeding *pro se* with this civil rights action pursuant to 42 U.S.C. § 1983. On December 26, 2019, fifteen plaintiffs, including Plaintiff Michael Warzek, filed a Complaint commencing this action against Valley State Prison (VSP), et al., for subjecting them to adverse conditions of confinement in violation of the Eighth Amendment by serving substandard food in Kosher meals at VSP. (ECF No. 2.)

1 On January 7, 2020, the court issued an order severing the fifteen plaintiffs' claims . (ECF  
2 No. 1.) Each of the fifteen plaintiffs was ordered to file an amended complaint in his own case  
3 within thirty days. (Id.) On February 4, 2020, Plaintiff Michael Warzek filed the First Amended  
4 Complaint in this case. (ECF No. 4.)

5 On April 19, 2022, Plaintiff filed a Motion for Writ of Mandate in which he requested a  
6 court order directing prison officials to allow him to correspond with Plaintiffs in related cases.  
7 (ECF No. 25.)

## 8 **II. MOTION FOR LEAVE TO CORRESPOND WITH ANOTHER INMATE**

9 Inmates may only correspond with one another if they obtain written authorization from  
10 the appropriate prison officials. Cal. Code Regs., tit. 15 § 3139. Correspondence by inmates  
11 between institutions is connected to legitimate security concerns, such as the possibility of  
12 communication of escape plans, plans to arrange violent acts, and improper correspondence  
13 between gang members. Turner v. Safley, 482 U.S. 78, 91, 107 S.Ct. 2254, 2263, 96 L.Ed.2d 64  
14 (1987). Regulations of mail may be imposed barring communication with inmates at other penal  
15 facilities, to protect the institutional order and security of the facility where the regulation does  
16 not deprive prisoners of all means of expression. Id. at 92. The Court recognizes that the  
17 judgment of corrections officials with respect to correspondence between prison institutions is  
18 "a judgment 'peculiarly within [their] province and professional expertise,' [and] should not be  
19 lightly set aside by the courts." Id. at 92–93 (quoting Pell v. Procunier, 417 U.S. 817, 827, 94  
20 S.Ct. 2800, 41 L.Ed.2d 495 (1974)).

21 Further, the court does not have jurisdiction in this action over anyone other than Plaintiff  
22 and Defendants, and cannot order prison officials to allow Plaintiff to correspond with other  
23 inmates. E.g., City of Los Angeles v. Lyons, 461 U.S. 95, 102, 103 S.Ct. 1660, 1665 (1983);  
24 Valley Forge Christian Coll. v. Ams. United for Separation of Church and State, Inc., 454 U.S.  
25 464, 471, 102 S.Ct. 752, 757-58 (1982); Jones v. City of Los Angeles, 444 F.3d 1118, 1126 (9th  
26 Cir. 2006). "[A] federal court may ... not attempt to determine the rights of persons not before  
27 the court." Zepeda v. United States Immigration Service, 753 F.2d 719, 727 (9th Cir. 1985).

1 Plaintiff does not say whether the Plaintiffs in related cases are incarcerated at the same  
2 facility as Plaintiff. Importantly, to obtain permission to correspond with another inmate, Plaintiff  
3 must follow the policies and procedures in place at the facility where Plaintiff is currently housed.  
4 Inmates in California state prisons may initiate requests to correspond with other inmates by  
5 contacting their Correctional Counselor. Cal. Code Regs. tit. 15, § 3139(b). Accordingly,  
6 Plaintiff's motion shall be denied.

7 **III. CONCLUSION AND RECOMMENDATIONS**

8 The court finds that it lacks jurisdiction to grant Plaintiff's motion directing prison  
9 officials to allow him to correspond with other inmates. Therefore, based on the foregoing, **IT**  
10 **IS HEREBY RECOMMENDED** that Plaintiff's motion for leave to correspond with Plaintiffs  
11 in related cases, filed on April 19, 2022, be DENIED.

12 These findings and recommendations are submitted to the United States District Judge  
13 assigned to the case, pursuant to the provisions of Title 28 U.S.C. § 636(b)(1). Within **fourteen**  
14 **(14) days** after the date of service of these findings and recommendations, any party may file  
15 written objections with the court. Such a document should be captioned "Objections to  
16 Magistrate Judge's Findings and Recommendations." Any reply to the objections shall be served  
17 and filed within **fourteen (14) days** after the date the objections are filed. The parties are advised  
18 that failure to file objections within the specified time may result in the waiver of rights on appeal.  
19 Wilkerson v. Wheeler, 772 F.3d 834, 838-39 (9th Cir. 2014) (citing Baxter v. Sullivan, 923 F.2d  
20 1391, 1394 (9th Cir. 1991)).

21  
22 IT IS SO ORDERED.

23 Dated: **October 31, 2022**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE